IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929

WP(C).No. 4227 of 2006(C)

PETITIONER:

MATTATHUR PANCHAYATH COTTAGE MATCH INDUSTRIAL CO-OPERATIVE SOCIETY NO.R.40, PADDY, KODAKARA, THRISSUR DISTRICT, REPRESENTED BY ITS PRESENT PRESIDENT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO THE GOVERNMENT, INDUSTRIES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, MUKUNDAPURAM TALUK.

3. ALPHONSA VARGHESE, AGED 45, W/O.VARGHESE, PARANILAYAM HOUSE, MURIKUNGAL DESOM, VELLIKULANGARA, THRISSUR DISTRICT.

BY ADV. SRI.RANJITH THAMPAN
SMT.P.A.ANITHA
SRI.C.A.CHACKO
BY SR.GOVT.PLEADER SRI.P.K.RAVIKRISHNAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.4227OF 2006)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the order passed by the Enquiry Officer dated 14.3.2003.

Ext.P2: Copy of the order of the Project Officer, Office of the Registrar, Khadi Industries Co-operative Society, Thrissur dtd.4.11.2003.

Ext.P3: Copy of the judgment rendered by this Court in W.P.(C) No.123 of 2004 dated 4.6.2004.

Ext.P4: Copy of the order issued by the first respondent dtd.30.3.2005.

Ext.P5: Copy of the Government Order issued by R1 dtd.25.11.2005.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO. 4227 OF 2006 - C

Dated this the 27th day of March, 2007

J U D G M E N T

The petitioner is a co-operative society. On allegations of mis-conduct, the petitioner initiated disciplinary proceedings against the third respondent. The enquiry was conducted and the third respondent was found guilty and the petitioner imposed on her the punishment of dismissal from service. The third respondent was the Secretary of the society. Challenging the said dismissal, the third respondent first filed a petition before the Project Officer and the District Registrar of Khadi and Village Industries Societies, Thrissur, but he declined to interfere with the punishment imposed on the third respondent. Thereafter, the third respondent filed a petition before the Government and the Government, by Ext.P4 order, set aside the punishment and directed reinstatement of the third respondent, without prejudice to the right of the petitioner-society to conduct a de novo disciplinary

proceedings in conformity with the rules and procedures. Alleging that this order was passed without hearing the petitioner, the petitioner approached this Court by filing W.P.(C) No.123 of 2004 in which by Ext.P3 judgment, the Government was directed to hear the petitioner and pass orders afresh. Pursuant to the same, the Government passed Ext.P5 order confirming Ext.P4 order. The petitioner is challenging Exts.P4 and P5 orders in this writ petition. From Ext.P4, I find that the Government has found that the Society has not constituted a sub-committee for conducting the disciplinary proceedings against the petitioner which resulted in the denial to the third respondent a chance to file an appeal before the Appellate Authority who is the Managing Committee, since the Managing Committee itself passed the order of punishment.

2. Of course, the petitioner would contend that the Government has now powers under the Co-operative Societies Act to interfere with the disciplinary

proceedings. Leaving aside that question, in so far as it is an admitted fact that the disciplinary proceedings against the third respondent were without constituting a sub committee as required under Rule 198(3) of the Kerala Co-operative Societies Rules, I am of the opinion that the orders of the Government need not be interfered with in exercise of my discretionary jurisdiction under Article 226 of the Constitution of India.

3. This Court had in **President, Pudupariyaram Service Co-op.Society** v. **Rugmini Amma and others** (1996(1) KLT 100) held that the decision imposing punishment taken by the Managing Committee instead of the sub-committee who was competent to take action under the rules will amount to negation of appeal provision provided under Rule 198(4) and therefore, failure to constitute the sub-committee is contrary to the provisions of the rules.

4. That being so, I do not think that the findings in Exts.P4 and P5 should be interfered with by me.

However, I make it clear that it would be open to the petitioner-Society to continue the disciplinary proceedings afresh from the stage of furnishing of enquiry report to the third respondent and take appropriate action as contemplated under Rule 198 of the Kerala Co-operative Societies Rules. Proceedings, if any, initiated pursuant to the above direction shall be completed within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of with the above direction.

S. SIRI JAGAN,
Judge

Mbs/

K.THANKAPPAN, J

Crl.Appeal NO. OF 2001

J U D G M E N T

DATED:13-02-2007